

IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS

Curtis J Neeley Jr., *et al*,

CASE NO. 13-cv-5293

Plaintiff(s) U. S. DISTRICT COURT
WESTERN DISTRICT ARKANSAS
FILED

JAN 27 2014

CHRIS R. JOHNSON, CLERK

BY

DEPUTY CLERK

Federal Communications Commissioners,
US Representatives; John Boehner, *et al*,
US Senators; Joe Biden, *et al*,
US Attorney General, Eric Holder Esq,
Microsoft Corporation,
Google Inc.

Defendants

BRIEF IN SUPPORT OF AMENDED MOTION FOR FEDERAL RULES OF CIVIL PROCEDURE RULE 59 OR RULE 60 RELIEF FROM JUDGMENT OR ORDER OR ALTERATION OF IMPROVIDENTLY DONE DOCKETS 12 & 16 OR GRANTING OF A NEW TRIAL

The Plaintiff, Curtis J Neeley Jr, most humbly and respectfully moves this District Court for relief from orders Dkt #12 (*ORDER denying 5 Motion for Recusal and granting 10 Motion to Dismiss. This case is dismissed*) and in Dkt #16 (*ORDER granting 13 Motion to Dismiss and reiterates that this case is dismissed*) per Fed Rules of CP Rule #60 due to mistakes, inadvertence, excusable neglect or other processes covered by Fed Rules of CP Rule #59. The issues are elucidated further herein where each improvidence warrants vacating Dkts. ##(12, or 16) or granting a new trial despite no jury or anyone accurately considering these claims. Jury trials are no longer regularly held for civil claims despite the Seventh Amendment guarantee for claims with values that “*exceed twenty dollars*”. The Seventh Amendment was ratified on December 15, 1791 over a year after the copy[r]ite Act of 1790 was passed and misspelled. This amendment was found not to apply in every State due to the Fourteenth Amendment. All states joining the Union, however, accept the Constitution including the text that follows and is still taught in schools though ignored in Dkts. ## (12, 16) by the United States District Court for the Western District of Arkansas and by the entire Judicial Branch everywhere else.

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”

I. GRANTING DOCKET #5 LABELED AS DENYING

A) This Plaintiff did not seek Honorable Jimm Larry Hendren's recusal and thinks Honorable Jimm Larry Hendren is **one of the most appropriates judges** in the United States. This was included specifically in the Dkt #5 "Motion" and Dkt. #19 as follows. This claim remains wholly true now.

"...Honorable P. K. Holmes recused leaving this on the docket of perhaps the only justice in the US able to provide a completely fair trial in this Earth impacting communications lawsuit..."

B) This Plaintiff only sought addressing recusal "**on-the-record**" and did not imply desiring the most appropriate judge possible to recuse and Dkt. #6 further clarified this as follows describing Honorable Jimm Larry Hendren as a fair competent judge wearing the blindfold of justice.

"Whereas Curtis J Neeley Jr still believes Honorable Jimm Larry Hendren to be a fair and competent older judge wearing the blindfold of justice as pointed out personally in District Court, Curtis J Neeley Jr, prays Honorable Jimm Larry Hendren consider on-the-record whether recusal is or is not required. If the blindfold of justice remains secure and recusal is not required to preserve fairness, Curtis J Neeley Jr, prays Honorable Jimm Larry Hendren address this unique claim as not violating any prior injunction since this would discourage costly frivolous motions that would surely follow but would not prevent these motions if any Defendant disagrees and wishes to be heard."

C) Each corporate criminal Defendant sought to be heard in Dkt ## (10, 13) and these highly misleading motions were granted due to processes covered by Federal Rules of Civil Procedure Rules ##(59, 60). These addressed further for criminal Defendants in sections "VI", "VII" below.

II. CLAIM IN NO WAY VIOLATES THE INJUNCTION

A) This claim does not involve any claim regarding anything "online" addressed in the past in any way. This fact was described in Dkt. #6 by ¶ #11 seen in Dkt. #19 and again below

"11. This litigation does not in any way violate the injunction against Curtis J Neeley Jr because it does not involve ANY CLAIM addressed in the past whatsoever. This improper allegation would be sure to be in the first Motion by Google Inc and this Plaintiff prays Honorable Jimm Larry Hendren consider this litigation being violation of the prior injunction as if this claim were brought by Defendants using the Neeley I, II, III, and now Neeley IV or other prejudging title and address this claim and save Defendant's legal costs due to bringing frivolous claims based on res judicata."

B) This District Court recognized privacy is involved in some way but failed to address as valid the criminal communications privacy laws this claim is wholly about. Violations of these criminal statutes warrant jury trials to determine damages warranted due the incontrovertible crimes seen for Google Inc in Dkt. # 19 exhibit "G". This Plaintiff hoped to avoid the costs of printing these until trial began but perhaps should have given the clarity these would provide.

1. The first page of Dkt. # 19 exhibit "G" does not include any morally objectionable material but communications shown criminally thereon did not exist during *Neeley I-III*. The second and third pages show the manner these graphics declared "morally objectionable" are NOT DISPLAYED to the anonymous public online until Google Inc violates 18 USC §2511 though Microsoft Corporation obeys in this particular instance.

2. The fourth page of Dkt. # 19 exhibit "G" shows criminal violations of Google Inc for other semi-moral artists returned illegally. This morally objectionable material is NOT DISPLAYED to the public as is shown on the fifth page. These criminally intercepted wire communications are displayed to the random public including children of this Plaintiff or any other parent. Other artists violated by the organized criminal enterprise of Google Inc are glad this crime is committed. This collusion does not make these less criminal actions or less damaging to this Plaintiff. The artists allowing this crime to occur are complicit and the Federal Communications Commission should enforce communications privacy laws protecting **common carrier communications** called the internet for disguise for decades in order to avoid regulation.

3. Moral artists take advantage of "good Samaritan" processes and self-tag their morally challenging artwork to prevent harming random children or parents. Some delete morally challenging art after discovering organized crimes done by Microsoft Corporation or criminal conspirator Google Inc discovered during *Neeley I-III*. No other artists pursues this communications privacy crime in order to enjoy additional exposure and potential sales. See Dkt. # 19 exhibit "G" pages (4,5) and Dkt. # 19 exhibit "M" pages (3, 4) . The Little Rock office of the FBI agreed these actions are crimes and would take a complaint but advised nothing would be pursued by the FBI and recommended civil litigation.

C) Microsoft Corporation does not still violate 18 U.S.C. §2511 for this Plaintiff's personal communications. Civil damages should not have been sought by this Plaintiff per 18 U.S.C. §2520 but this was done by honest mistake. Damages should have been sought from each FCC Commissioner for allowing these crimes to harm this Plaintiff and the ability to parent as can be seen in both Dkt. #19 exhibit "M" and Dkt. #19 exhibit "G".

III. CLAIM NOT RECOGNIZED AS ABOUT COMMUNICATIONS

A) This District Court briefly mentioned the whole rational for this claim in passing as, "*various claims regarding privacy in wire communications*", and claimed these were, "*essentially identical [to] pro se complaint Neeley v. Federal Communications Commission, et al., Case No. 5:13-mc-66*", and left clear evidence of rational supporting the Rule 59 or Rule #60 relief now sought.

1. It was never said these were banking communications like wiring money or cable TV wiring of satellite communications usually used with these statutes. All use of the internet is usage of common carrier wire communications combined with usage of "*airwaves*". This complaint was not "*couching*" an old injunction-barred complaint but a precise and new use of US law.

2. "[E]ssentially identical" is correct only like when comparing cucumbers to squash or apples to peaches. These were called "*identical*" by mistake like when comparing apples and peaches to potatoes and cucumbers or comparing *Neeley I-III* to this claim regardless of when realized.

IV. THIS CLAIM NOT ABOUT WHAT IS shown "ONLINE" BUT HOW

A) This District Court and each corporate Defendant failed to recognize the fact this Plaintiff has little concern with even obscene images returning for searches of "curtis neeley" from ANY website when the searcher is logged-in, responsible, and contactable unless this is done maliciously. This fact remains utterly true today. This claim should have been pursued decades ago already.

1. Free speech is essential for the “web” to exist as a common carrier and Plaintiff acknowledges this. Free speech can be commonly seen occurring safely at facebook.com or at deviantart.com. Without logging-in; - Morally questionable communications do not occur due to the “*good Samaritan*” protections left to protect anonymous minors by moral people self-tagging their own morally questionable communications.

2. The criminal communications violations each corporate criminal Defendants compete to do most profitably is showing self-tagged morally questionable art without the tagging included by the originators to protect anonymous children. This creates the public nuisance called “*open internet*” that is often an illegal radio Wi-Fi broadcasts into “airwaves” since around 2000.

B) Corporate criminal Defendants could nearly avoid this claim by requiring users of their criminal enterprises or “search engines” be logged-in and contactable by artists for art indexed.

1. **This claim is not about what offensive material is returned but how this material is returned.** Parents should have the opportunity to be protected by the Federal Communications Commission when children are curious about morally questionable material accessible “online”. Parents should be protected from each criminal Defendant violating the MANNER many morally questionable and tagged materials are returned criminally to anonymous children. Parents are left hoping for “contactable” logging-in required by moral “good Samaritan” artists or hoping some expensive aftermarket child-safety filter is adequate and installed properly.

2. Yes; Children could log-in when consuming morally questionable material. Parents could then check the communication records instead of the criminal manner this occurs now. Moral artists generally seek to be “good Samaritans” and require contactable logging-in. Each corporate criminal Defendant intercepts these attempts and claim this artwork is offered from some computer or library made accessible by wire and called “*public domain*” by Google Inc.

V. CLAIM AGAINST CONGRESS NOT CONSIDERED

A) Plaintiff calmly points out that as a result of the ruling called fair in Dkt # 6 at the conclusion of *Curtis J Neeley, Jr. v. NameMedia, Inc., et al.*, Case No. 5:09-cv-5151-JLH (“Neeley I”) there is a clear constitutional claim against Congress for not protecting the Plaintiff’s personal moral rights as an author as authorized by the Constitution. This failure is further grounded by the *Holder*, (10-545) assertion that Congress intended “*unstinting*” Berne Convention compliance including Article 6bis. A portion of Dkt #6 follows.

“...completely fair judicial service including the recent ruling that 17 U.S.C. §106A does not protect [sic] “online”. This fair ruling was obviously due to Congress attempting to back into artist’s moral rights without recognizing the centuries of misspelled copy[rite] laws in US Title 17 since 1790.”

B) Congress and the FCC were faulted in this complicated complaint for failing to clarify the Communications Decency Act of 1995 so that 47 USC §230(c)(1) was not interpreted by this District Court, all Appellate Courts, and even the Supreme Court to protect indecency rather than the “good Samaritans” intended to be protected by this law because of the *Reno v ACLU*, (96-511) error.

VI. Microsoft Corporation's Dkt. #10 warrants relief from Dkt. #12

A) Plaintiff most respectfully points out that Microsoft Corporation made factual statements that ignored the complaint and used these truths to mislead this District Court. This factual statement follows and how this fact tried to mislead is then explained.

“(2) Bing users who perform a search for “Curtis Neeley” can locate publicly available websites containing nude images;”

1. Yes; users users who perform searches for “Curtis Neeley” can locate publicly available websites containing naked images, can rob banks while naked, or can visit the moon. These facts are all speculative though no users are likely to visit the moon or rob a bank naked. All naked photos shown in these searches **ARE NOT FROM PUBLICLY AVAILABLE WEBSITES**. One exception and the only one a cognizable part of this complaint can be seen in Dkt. #19 exhibit “M” on the first page. All other naked images are from publicly available or wire broadcasts of websites. Most of these illegal, obscene,

naked communication broadcasts and most notably those from michelle7-erotica.com do not have the text "Curtis Neeley" as is claimed fraudulently by Microsoft Corporation.

2. These are therefore fraudulent uses of computers. **THIS IS NOT INCLUDED** in the Plaintiff's complaint. These claims would likely be violation of the injunction and would perhaps explain why counselor Marshall S. Ney Esq made this claim.

3. There may be only one naked image currently associated with "curtis neeley" **"NOT FROM PUBLICLY AVAILABLE WEBSITES"**. The ONE naked image seen now in Dkt. #19 exhibit "M" on the first page is violation of 18 USC §2511 and is criminal interception of electronic communications the FCC should answer for allowing.

B) Plaintiff most timidly and respectfully points out Local Rule 7.2(a) and Local Rule 7.2(e) follows and then tactfully points out rational warranting relief.

"(a) All motions except those mentioned in paragraph (d) shall be accompanied by a brief consisting of a concise statement of relevant facts and applicable law. Both documents shall be filed with the Clerk, and copies shall be served on all other parties affected by the motion.

(e) Pretrial motions for temporary restraining orders, motions for preliminary injunctions, and motions to dismiss, shall not be taken up and considered unless set forth in a separate pleading accompanied by a separate brief."

1. Dkt. #10 was four pages and not concise and had no brief accompaniment. This motion-brief, however, was a well done attempt to encourage dismissal in spite of the cognizable complaints entered but not recognized.

2. Dkt. #10 was allegedly "taken up and considered" and granted despite never being served or responded to by this Plaintiff. This would be evidence enough to convince any jury this District Court had chosen to dismiss this extremely complicated and Earth impacting complaint based on some cause warranting Rule 59 or 60 relief.

VII. Google Inc Dkt. #13 warrants relief from Dkt. #16

A) Plaintiff timidly and respectfully points out that Google Inc quoted past errors of this court ignoring the served complaint and the *Neeley II* complaint and repeated this error to mislead this District Court. This use of the District Court's clearly mistaken use of "public domain" follows and how this was used to mislead is then explained.

"The Court aptly summed up the basis for all of Mr. Neeley's litigation against Google: "plaintiff's artwork depicting nude figures, which he placed in the public domain, were accessible to users, including minors, by conducting an internet search of plaintiff's name." Neeley II, Dkt. No. 21 at 4. Mr. Neeley offers nothing further to undergird his latest round of claims. This lawsuit is solely based on the same "nucleus of operative facts" and, therefore, is barred from relitigation by res judicata."

1. Yes; quotation of this District Court's prior rulings should be generally safe except when taken out of context to lure this court to affirm prior erroneous usage of the legal term "public domain" to hide the cognizant claim made and establish new law.

2. This Plaintiff NEVER placed any naked images where accessible in the public domain DURING *Neeley I-III* and **this claim does NOT INVOLVE NAKED IMAGES BY THIS PLAINTIFF**. The Plaintiff challenges Google Inc, Microsoft Corporation, this District Court, or anyone on Earth to find naked images done by this Plaintiff shown to the public using the Plaintiff's personal name. This is just **NOT CURRENTLY DONE**.

3. This complaint involves GRAPHICS seen in Dkt. #19 exhibit "G" on page one and none of these graphics involve nakedness. Two are illustrations used attempting to explain why radio spectrum should no longer be such a limited resource and how Wi-Fi could now be provided by FM radio stations. The science involved is far beyond most people on Earth including most electrical engineers. Two info-graphics depict a family being protected from the reign of pornography by an umbrella made from the FCC logo. One info-graphic depicts the United States copy[rite] logo crossed out because of the ruling that left the internet exempt from 17 USC §106A claims or (*Neeley I*).

B) Plaintiff respectfully points out that Google Inc attempted to ignore the complaint served.

1. Section III of Dkt. #1 is clearly a cognizable claim involving the interception of communications. PERIOD. A criminal complaint will be made part of evidence.

2. Section IV of Dkt. #1 is clearly a cognizable claim involving the interception of communications made by wire to a book publisher that were intercepted and criminally disclosed in violation of law for which the statutory limitations are tolled. A criminal complaint will be made part of evidence.

C) The entire internet is NOT the “public domain” and the graphic and info-graphics shown on Dkt. #19 exhibit “G” and described above in section IV(A)(3) are not shown to ANY anonymous person until the crimes done by Google Inc clearly seen in Dkt. #19 exhibit “G”.

CONCLUSION and PRAYER

1. This Plaintiff is very pro se and continues now to trust Honorable Jimm Larry Hendren to vacate orders of Dkt. ##(12, 16) for rational warranting Rule 59 or Rule 60 relief. Plaintiff additionally trusts Honorable Jimm Larry Hendren to not be personally biased against this Plaintiff based on improper tenor in the past. This improper tenor will never again occur. Honorable Jimm Larry Hendren understands punishment needed for criminal immoral wire communications, though called “open internet”, better than most people in the United States regardless of age when these wire communications are used for morally questionable activities like child pornography and especially when the wire medium used to both broadcast communications and privately exchange theSE continues to be called “internet”.

2. This Plaintiff appreciates the extreme kindness demonstrated by each Counselor seeking dismissal because sanctions were graciously not requested thus far. These motions both were quickly opposed before physically served. Regardless; This entire action and (*Neeley I-III*) will remain accessible to the public by wire broadcasting perpetually like the \$100 fine once given Susan B Anthony for voting while female remains uncollected. This Plaintiff has no faith in justice from the Eighth Circuit Court of Appeals and believes the Supreme Court is both culturally out-of-date and most justices should be impeached for the *Citizens United* mistake and the pending *McCucheon* mistake due to these rulings showing bad behavior due to giving the legal construct of "corporations" individual human rights and calling campaign donations "speech" that should be protected by the First Amendment.

3. This Plaintiff will not appeal this order determination to ANY court and humbly prays Honorable Jimm Larry Hendren vacates Dkt ##(12 16) as inopportune orders granting Motions not yet opposed or served due to confusing this very poorly done claim with *Neeley v. Federal Communications Commission, et al.*, Case No. (5:13-mc-66) or failing to read or misreading the request to consider recusing on-the-record and the complaint like all law firms involved must have done. In the alternative, Plaintiff prays for dismissal of only Microsoft Corporation and allowing this claim to proceed to trial after amended to personally include the US Attorney General, each Federal Communications Commissioner, 3rd District AR Representative Steve Womack, AR Senator Mark Pryor, Google Inc, and future Senate Candidate or current 2nd AR District Representative Tom Cotton. These are all included now if only by reference.

4. Dismissing this claim will give this dismissal its own legacy and be accessible perpetually online and be studied in law schools from now on and can be seen from TheEndofPornbyWire.org/docket. This mentally disabled *pro se* Plaintiff will accept this as grotesque injustice left perpetually visible like living with no legs and with no clear memory of the past. Other parents or teachers can and probably will repeat this claim in other jurisdictions where complicated communications privacy complaints are not compared to prior complaints regarding moral copy[rite] for naked art done with improper tenor. This Plaintiff herein advises this District Court, law students, and all citizens of Earth this very complaint marks the beginning of the end of irresponsible wire medium broadcasting and the end of the wholly immoral "open internet". The FCC common carrier regulation of the wire medium will finally safely connect all of humanity regardless of nationality, religion, moral beliefs, or politics.

5. This brief supporting the Amended Motion for Federal Rules of Civil Procedure Rule 59 or Rule 60 Relief from Judgment or Order Alteration of Improvidently Done Dockets 12 & 16 or Granting New Trial includes the entire text of the prior supporting brief Dkt. #19 after corrected and supplemental rational added. The Amended Motion for Federal Rules of Civil Procedure Rule 59 or Rule 60 Relief from Judgment or Order Alteration of Improvidently Done Dockets 12 & 16 or Granting New Trial is done because errors of Dkt. 17 included errors in the docket text entered. Curtis J Neeley Jr prays proper tenor is herein retained.

6. Broadcasting illegal material to anonymous minors or other parties using both the interconnected wire communications medium and "airwaves" now called "internet", ends in 2014 whether done by this District Court or in another jurisdiction by another party using these EXACT type claims. This severely brain injured Plaintiff prays discovery and jury trial are next in this District of United States Court. Other countries on Earth are beginning to regulate wire communications broadcasting and this is an opportunity to see it begin in the United States and make all child pornography broadcasting end quickly. Plaintiff reiterates the fact that there will be no appeal of any District Court decision begun by this Plaintiff.

Most Respectfully Submitted,


Curtis J Neeley Jr.

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**IN THE UNITED STATES COURT FOR THE
WESTERN DISTRICT OF ARKANSAS**

Curtis J Neeley Jr., *et al*,

Plaintiff(s)

CASE NO. 13-cv-5293

**Federal Communications Commissioners,
US Representatives; John Boehner, *et al*,
US Senators; Joe Biden, *et al*,
US Attorney General, Eric Holder Esq,
Microsoft Corporation,
Google Inc.**

Defendants

CERTIFICATE OF SERVICE

**NOTICE OF PERMANENT PUBLIC SERVICE OF THIS COMPLAINT AND FREE
PERMANENT PUBLIC MIRROR OF THE PACER ARWD DOCKET**

1. This litigation will effect the future of [sic] "online" for the entire Earth and will remain accessible perpetually by simultaneous wire and radio broadcasting from the following two URLs. This is the easiest and most fair method to make this accessible to every US Senator, every US Representative, and every Federal Communications Commission Commissioner while accessible to all US citizens at the same time with the complaint broadcast in all common text file formats. Curtis J Neeley Jr swears and affirms under penalty of perjury that today January 27, 2014 this will be scanned and made accessible by the ARWD Court Clerk and be mirrored freely to each Defendant as well as the public.

A. TheEndofPornbyWire.org

B. TheEndofPornbyWire.org/docket

Most Respectfully Submitted,


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